

- b. Upon the request of the other party, the subcontracting, assigning, delegating or transferring party shall provide all documents evidencing the subcontract, assignment, delegation or transfer.

8. CONFLICT OF INTEREST

The CONTRACTOR covenants that it has no public or private interest, and will not acquire directly or indirectly any interest which would conflict in any manner with the performance of the Services. The CONTRACTOR warrants that no part of the total Contract Fee shall be paid directly or indirectly to any officer or employee of the COUNTY as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor or Contractor to the CONTRACTOR in connection with any work contemplated or performed relative to this Contract.

9. CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the COUNTY will have the right to recover the full amount of such fee, commission, percentage, brokerage fee, gift, or other consideration.

10. EMPLOYMENT OF COUNTY WORKERS

The CONTRACTOR will not engage, on a full, part-time, or any other basis during the Term of the Contract, any professional or technical personnel who are or have been at any time during the Term of the Contract in the employ of the COUNTY.

11. ACCESS TO RECORDS

During all phases of the work and Services to be provided hereunder, CONTRACTOR agrees to permit duly authorized agents and employees of the COUNTY to enter Contractor's offices for the purpose of inspections, reviews and audits during normal working hours. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places. The CONTRACTOR will maintain all books, documents, papers, accounting records, and other evidence pertaining to the Fee paid under this Contract and make such materials available at

their offices at all reasonable times during the Term of this Contract and for three (3) years from the date of payment under this Contract for inspection by the COUNTY or by any other governmental entity or agency participating in the funding of this Contract, or any authorized agents thereof. Copies of said records shall be furnished to the COUNTY upon request.

12. ARBITRATION

Any dispute concerning a question of fact in connection with the work not disposed of by agreement between the CONTRACTOR and the COUNTY will be referred to the Shelby County Contract Administrator or its duly authorized representative, whose decision regarding same will be final.

13. RESPONSIBILITIES FOR CLAIMS AND LIABILITIES

- a. CONTRACTOR shall indemnify, defend, save and hold harmless the COUNTY, and its elected officials, officers, employees, agents, assigns, and instrumentalities from and against any and all claims, liability, losses or damages—including but not limited to Title VII and 42 USC 1983 prohibited acts—arising out of or resulting from any conduct; whether actions or omissions; whether intentional, unintentional, or negligent; whether legal or illegal; or otherwise that occur in connection with or in breach of this Contract or in the performance of the Services hereunder, whether performed by the CONTRACTOR its subcontractors, agents, employees or assigns. This indemnification shall survive the termination or conclusion of this Contract.
- b. CONTRACTOR expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by the CONTRACTOR shall in no way limit the responsibility to indemnify, defend, save and hold harmless the COUNTY or its elected officials, officers, employees, agents, assigns, and instrumentalities as herein provided.
- c. The COUNTY has no obligation to provide legal counsel or defense to CONTRACTOR or its subcontractors in the event that a suit, claim or action of any character is brought by any person not a party to this agreement against CONTRACTOR as a result of or relating to performance of the Services under this Contract.

- d. Except as expressly provided herein, the COUNTY has no obligation for the payment of any judgment or the settlement of any claims against CONTRACTOR as a result of or relating to performance of the Services under this Contract.
- e. CONTRACTOR shall immediately notify the COUNTY of any claim or suit made or filed against CONTRACTOR or its subcontractors regarding any matter resulting from or relating to Contractor's performance of the Services under this Contract and will cooperate, assist and consult with the COUNTY in the defense or investigation thereof.

14. GENERAL COMPLIANCE WITH LAWS

- a. The CONTRACTOR certifies that it is qualified or will take steps necessary to qualify to do business in the State of Tennessee and that it will take such action as, from time to time, may be necessary to remain so qualified and it shall obtain, at its expense all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of the Services under this Contract.
- b. The CONTRACTOR is assumed to be familiar with and agrees that at all times it will observe and comply with all federal, state, and local laws, ordinances, and regulations in any manner affecting the performance of the Services. The preceding shall include, but is not limited to, compliance with all Equal Employment Opportunity laws, the Fair Labor Standards Act, Occupational Safety and Health Administration (OSHA) requirements, and the Americans with Disabilities Act (ADA).
- c. This Contract will be interpreted in accordance with the laws of the State of Tennessee. By execution of this Contract, the CONTRACTOR agrees that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Contract will be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this Contract submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

15. NON-DISCRIMINATION

The CONTRACTOR hereby agrees, warrants, and assures compliance with the provisions of Title VI and VII of the Civil Rights Act of 1964 and all other federal statutory laws which provide in whole or in part that no person shall be excluded from participation or be denied benefits of or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the CONTRACTOR on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee State Constitutional or statutory law. The CONTRACTOR shall upon request show proof of such non-discrimination and shall post in conspicuous places available to all employees and applicants notices of non-discrimination.

16. ENTIRE AGREEMENT

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, whether oral or written.

17. AMENDMENT

This Contract may be modified or amended only by written instrument signed by both parties.

18. SEVERABILITY

If any provision of this Contract is held to be unlawful, invalid or unenforceable under any present or future laws, such provision shall be fully severable; and this Contract shall then be construed and enforced as if such unlawful, invalid or unenforceable provision had not been a part hereof. The remaining provisions of this Contract shall remain in full force and effect and shall not be affected by such unlawful, invalid or unenforceable provision or by its severance here from. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this Contract a legal, valid and enforceable provision as similar in terms to such unlawful, invalid or unenforceable provision as possible.

19. NO WAIVER OF CONTRACTUAL RIGHT

No waiver of any term, condition, default, or breach of this Contract, or of any document executed pursuant hereto, shall be effective unless in writing and executed by the party making such waiver; and no such waiver shall operate as a

waiver of either (a) such term, condition, default, or breach on any other occasion or (b) any other term, condition, default, or breach of this Contract or of such document. No delay or failure to enforce any provision in this Contract or in any document executed pursuant hereto shall operate as a waiver of such provision or any other provision herein or in any document related hereto. The enforcement by any party of any right or remedy it may have under this Contract or applicable law shall not be deemed an election of remedies or otherwise prevent such party from enforcement of one or more other remedies at any time.

20. MATTERS TO BE DISREGARDED

The titles of the several sections, subsections, and paragraphs set forth in this contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Contract.

21. SUBJECT TO FUNDING

This Contract is subject to annual appropriations of funds by the Shelby County Government. In the event sufficient funds for this Contract are not appropriated by Shelby County Government for any of its fiscal period during the Term hereof, then this Contract will be terminated. In the event of such termination, the CONTRACTOR shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the Termination Date.

22. TRAVEL EXPENSES

All travel expenses payable under this Contract shall be in accordance with the County Travel Policy and Procedures. This includes advance written travel authorization, submission of travel claims, documentation requirements, and reimbursement rates. No travel advances will be made by the County.

23. NON-LIABILITY FOR CONTRACTOR EMPLOYEE TAXES

Neither CONTRACTOR nor its personnel are COUNTY's employees, and COUNTY shall not take any action or provide Contractor's personnel with any benefits and shall have no liability for the following:

- a. Withholding FICA (Social Security) from Contractor's payments;

- b. Making state or federal unemployment insurance contributions on behalf of CONTRACTOR or its personnel;
- c. Withholding state and federal income tax from payment to CONTRACTOR;
- d. Making disability insurance contributions on behalf of CONTRACTOR;
- e. Obtaining workers' compensation insurance on behalf of CONTRACTOR or Contractor's personnel.

24. INCORPORATION OF OTHER DOCUMENTS

- a. CONTRACTOR shall provide Services pursuant to this Contract in accordance with the terms and conditions set forth within the Shelby County Request for Proposals/Bids as well as the Response of CONTRACTOR thereto, all of which are maintained on file within the Shelby County Purchasing Department and incorporated herein by reference.
- b. It is understood and agreed between the parties that in the event of a variance between the terms and conditions of this Contract and any amendment thereto and the terms and conditions contained either within the Request for Proposals/Bids or the Response thereto, the terms and conditions of this Contract as well as any amendment shall take precedence and control the relationship and understanding of the parties.

25. CONTRACTING WITH LOCALLY OWNED SMALL BUSINESSES

The CONTRACTOR shall take affirmative action to assure that Locally Owned Small Businesses that have been certified by the COUNTY are utilized when possible as sources of supplies and equipment, construction and services.

26. LIVING WAGE ORDINANCE

In accordance with Ordinance Number 328, commonly referred to as the Living Wage Ordinance, all persons/entities engaged in service contracts with the County, including but not limited to both prime and subcontractors, shall pay a Living Wage to employees for all work performed on said service contract, as defined in the Living Wage Ordinance. Proof of such compensation must be evidenced as required in the Living Wage Ordinance.

27. RIGHT TO REQUEST REMOVAL OF Contractor's EMPLOYEES

The COUNTY may interview the personnel CONTRACTOR assigns to COUNTY's work. COUNTY shall have the right, at any time, to request removal of any employee(s) of CONTRACTOR, whom COUNTY deems to be unsatisfactory for any reason. Upon such request, CONTRACTOR shall use all reasonable efforts to promptly replace such employee(s) with substitute employee(s) having appropriate skills and training.

28. INCORPORATION OF WHEREAS CLAUSES

The foregoing whereas clauses are hereby incorporated into this Contract and made a part hereof.

29. DISCLOSURE OF REPORTS, DATA OR OTHER INFORMATION

Notwithstanding anything to the contrary contained herein or within any other document supplied to COUNTY by CONTRACTOR, CONTRACTOR understands and acknowledges that COUNTY is a governmental entity subject to the laws of the State of Tennessee and that any reports, data or other information supplied to COUNTY by CONTRACTOR due to Services performed pursuant to this Contract is subject to being disclosed as a public record in accordance with the laws of the State of Tennessee.

30. ORGANIZATION STATUS AND AUTHORITY

- a. CONTRACTOR represents and warrants that it is a corporation, limited liability company, partnership, or other entity duly organized, validly existing and in good standing under the laws of the state of Tennessee; it has the power and authority to own its properties and assets and is duly qualified to carry on its business in every jurisdiction wherein such qualification is necessary.
- b. The execution, delivery and performance of this Contract by the CONTRACTOR has been duly authorized by all requisite action and will not violate any provision of law, any order of any court or other agency of government, the organizational documents of CONTRACTOR, any provision of any indenture, agreement or other instrument to which CONTRACTOR is a party, or by which Contractor's respective properties or assets are bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other

instrument, or result in the creation or imposition of any lien , charge or encumbrance of any nature whatsoever upon any of the properties or assets.

31. INSURANCE REQUIREMENTS

- a. The CONTRACTOR shall purchase and maintain, in a company or companies licensed to do business in the State of Tennessee, such insurance as will protect the County from claims which may arise out of or result from the Contractor's operations under the Contract, whether such operations are performed by himself or by any subcontractors or by anyone directly or indirectly employed by any of them, or by anyone for whose acts the CONTRACTOR or subcontractor may be liable.
- b. The insurance required shall be written for not less than any limits of liability specified or required by law, whichever is greater. Shelby County Government, its elected officials, appointees and employees will be named as additional insured. All policies will provide for thirty (30) days written notice to COUNTY of cancellation or material change in coverage provided. The CONTRACTOR will maintain throughout the life of this Contract insurance, through insurers rated A- or better by A.M. Best, in the following minimum requirements:
  - i) Professional Liability Insurance - \$1,000,000.00 per claim/\$2,000,000.00 annual aggregate, indicating if coverage is on occurrence basis or claims-made.
  - ii) Commercial General Liability Insurance - \$1,000,000.00 limit per occurrence bodily injury and property damage/\$1,000,000.00 personal and advertising injury/\$2,000,000.00 General Aggregate/\$2,000,000.00 Products-completed Operations Aggregate, indicating the coverage is provided on a claims-made or on an occurrence basis. The insurance shall include coverage for the following:
    - a. Premises/Operation;
    - b. X,C, & U;
    - c. Products/Completed Operations;
    - d. Contractual;
    - e. Independent Contractors;
    - f. Broad Form Property Coverage;
    - g. Personal Injury.

- iii) Workers Compensation and Employers' Liability Insurance - Workers Compensation statutory limits as required by Tennessee. This policy should include Employers' Liability Coverage for \$1,000,000.00 per accident.
- iv) Business Automobile Liability Insurance - \$1,000,000.00 each accident for property damage and personal injury. Coverage is to be provided on all owned/leased autos, non-owned autos and hired autos.
- c. CONTRACTOR shall provide County with a current copy of the Certificate of Insurance at the time of contracting and shall maintain said insurance during the entire Contract period as well as provide renewal copies on each anniversary date. The certificate holder is to read:

Shelby County Government  
Purchasing Department  
160 N. Main, Suite 550  
Memphis, TN 38103
- d. Upon termination or cancellation of insurance currently in effect under this Contract, the CONTRACTOR shall purchase an extended reporting endorsement and furnish evidence of same to the County.

32. NOTICE

Any notices required or permitted to be given under the provisions of this Contract shall be effective only if in writing and delivered either in person to the COUNTY's authorized agent or by First Class or U.S. Mail to the addresses set forth below, or to such other person or address as either party may designate in writing and deliver as herein provided:

COUNTY: Shelby County Information Technology  
160 N. Main Street, Suite 700  
Memphis, Tennessee 38103  
Attn.: IT Administration

and

Shelby County Government  
Contract Administration  
160 N. Main St., Suite 550  
Memphis, Tennessee 38103

VENDOR: Coleman Technologies, Inc.  
Kirk Sawyer, VP & CFO  
20 N. Orange Ave, Suite 300  
Orlando, Florida 32801

IN WITNESS WHEREOF, the parties hereto have set their signatures for the purposes contained herein, on the day and date first above written.


APPROVED:

SHELBY COUNTY GOVERNMENT

  
\_\_\_\_\_  
Contract Administrator/  
Assistant County Attorney

\_\_\_\_\_  
A C Wharton, Jr., Mayor

Coleman Technologies, Inc.

BY:   
\_\_\_\_\_  
TITLE: CFO & VP - Finance & Ops

CORPORATE ACKNOWLEDGMENT

STATE OF FLORIDA

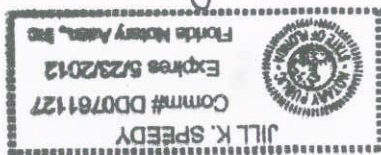
COUNTY OF ORANGE

Before me, the undersigned Notary Public, in and for the State and County aforesaid, personally appeared Kirk Sawyer, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself/herself to be president or other officer authorized by appropriate Corporate action and/or Resolution to execute the preceding instrument of the CLEMAN TECHNOLOGIES, INC. the within named bargainor, a corporation, and that he as such AUTHORIZED REPRESENTATIVE executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself/herself as CEO VP-B-DR

WITNESS my hand and official seal at office this 14 day of April, 2008.

Jill K. Speedy  
Notary Public

My Commission Expires: 5/23/2012



**SHELBY COUNTY GOVERNMENT**  
**INFORMATION TECHNOLOGY DEPARTMENT**  
DEPARTMENTAL COMMUNICATION

TO: Clifton Davis, Administrator  
Purchasing Department

FROM: Daryl Atkinson, Interim Manager  
Technical Support

DATE: March 25, 2008

SUBJECT: Recommendation for award of RFP 08-001-38

After reviewing the 3 responses submitted in regards to RFP 08-001-38, Network Refresh and Enhancements, we recommend that RFP 08-001-38 be awarded to Coleman Technologies, Inc. Our recommendation is based on the following information.

There were 3 responses submitted to RFP 08-001-38, Consulting Concepts & Management, AT&T and Coleman Technologies, Inc.

The Consulting Concepts & Management response was incomplete, as they failed to propose pricing on the requested fiber transceivers as required in the RFP. Therefore their proposed pricing was incomplete. Even considering the incomplete response, Consulting Concepts & Management was the high bidder, as their total proposed pricing as submitted is \$1,732,633.50.

The AT&T response was incomplete, as they did not propose the costs for the 1<sup>st</sup> year of maintenance on the majority of the Cisco 6500 based equipment as required in the RFP. Therefore their proposed pricing was incomplete. Even considering this, AT&T was not the low bidder, as their total proposed pricing as submitted is \$1,262,686.71.

The Coleman Technologies Response was complete and their proposed pricing accounted for all requirements listed in the RFP. In addition, the Coleman Technologies response was the low bid, as their total pricing as submitted is \$1,104,009.50.

Therefore, based on our reviews of all submissions, we recommend that RFP 08-001-38 be awarded to Coleman Technologies, Inc.

Pricing Summary

Consulting Concepts & Management	AT&T	Coleman Technologies, Inc
\$1,732,633.50	\$1,262,686.71	\$1,104,009.50



## Shelby County Purchasing Department

**RFP: 08-001-38 Cisco Network Equipment Refresh & Enhancements**

**Due: 3/14/2008**

**Department: Information Technology**

**I.T. Selection Committee**

### CATEGORIES

#### MINIMUM REQUIREMENTS

Respond completely with proposed pricing to the requested Cisco equipment specifications.

One (1) year of Smartnet maintenance must be included in the proposed pricing.

#### EXPERIENCE/REFERENCES

Did the respondent list creditable reference for same/like services

Has the respondent provided the same/like services in the past

#### COST

Cost of Proposed Hardware

Cost of Proposed Labor

#### SCORE

Minor (unweighted)

Major (weighted)

**TOTAL**

		AT&T		Coleman Technology		CCM	
		(Minor weight=max score for each requirement)					
		(0 = did not meet requirement)					
		Major Weights	Minor Weights				
		25.00		13.00	25.00	20.00	
			15.00	10	15	10	
			10.00	3	10	10	
		15.00		15.00	15.00	15.00	
			5.00	5	5	5	
			10.00	10	10	10	
		60.00		35.00	60.00	25.00	
			40.00	35	40	20	
			20.00	0	20	5	
				AT&T	Coleman Technology	CCM	
				63	100	60	
		100.00		63.00	100.00	60.00	

**RFP 08-001-38**  
**Cisco Network Refresh & Enhancements**  
**Vendor List**

At&t                      Ven:  
6055 primacy parkway, Ste 360  
Memphis, TN 38119  
Contact: Jamie Spicer              (901) 762-6919  
**RFP Response Received by Purchasing**

Coleman Technologies, Inc. Ven: 68132  
60 Germantown Court, Suite 112  
Memphis, TN 38018  
Contact: Susan Stewart              (901) 275-4425  
**RFP Response Received by Purchasing**

Consulting Concepts & Management  
2565 Horizon lake, Suite 114  
Memphis, TN 38133  
Contact: Laura Keon (901) 322-9601  
**RFP Response Received by Purchasing**

LAN ONE                      Ven:  
516 Tennessee St.  
Memphis, TN 38103  
Contact: Tony Okhira (901) 301-1442  
**No RFP Response Received**

Mitchell Technology Group, Inc. Ven: 99969  
3331 Kirby Parkway  
Memphis, TN 38115  
Contact: Leddelle Mitchell (901) 363-2448  
**No RFP Response Received**

Pomeroy                      Ven: 15117  
717 Airpark Center Drive  
Nashville, TN 37217  
Contact: Jeff Dunn              (615) 399-0404 Ext. 5230  
**No RFP Response Received**

ProSys Information Systems, Inc. Ven: 02596  
840 Crescent Center Drive      Suite 160  
Franklin, TN 37067  
Contact: Audra Moore              (901) 334-5033  
**No RFP Response Received**

Thomas Consultants Ven: 22649  
187 Summit Street  
Memphis, TN 38104-4232  
Contact: Darrell Thomas (901) 398-8426  
**No RFP Response Received**

Venture Technologies Ven: 28794  
7953 Stagehill Blvd Suite 401  
Memphis, TN 38133  
Contact: Tom O'Hara (901) 937-2100  
**No RFP Response Received**



Coleman Technologies, Inc.

ORIGINAL

20 N. Orange Avenue, Suite 300  
Orlando, Florida 32801  
Phone: (407) 481-8600  
Fax: (407) 481-8618

## ATTACHMENT

### Proposal Response Sheet

#### Cisco Network Equipment Refresh & Enhancements, RFP # 08-001-38

Name of firm: Coleman Technologies, Inc.  
Firm's Website: www.ctiusa.com

Mailing Address:  
60 Germantown Court, Suite 112  
Memphis, TN 38018  
Phone: 901-275-4425  
Fax: 407-650-9769

Remit Address:  
20 N. Orange Avenue, Suite 300  
Orlando, FL 32801  
Phone: 407-481-8600  
Fax: 407-481-8618  
Payment Terms: Net 30

Authorized Representative: *Kirk Sawyer* 2/26/08

Print: Kirk Sawyer, VP & CFO

Signature (Person authorized to negotiate with the County on behalf of the organization/firm.)

Email address: ksawyer@ctiusa.com

The signature above indicates that certifies that:

- (i) the Proposer's signatory is an agent authorized to submit proposals on behalf of the organization/firm;
- (ii) all declarations in the proposal and attachments are true to the best of reasonable knowledge;
- (iii) all aspects of the proposal, including cost, have been determined independently, without consultation with any other prospective Proposer or competitor for the purpose of restricting competition;
- (iv) the offer made in the proposal is firm and binding for 90 days after receipt of the proposal by the County; and
- (v) all aspects of this RFP and the proposal submitted are binding for the duration if this proposal is selected and a contract awarded.

EOC #: EOC-VS-1102

Check here if you qualify as a MBE \_\_\_\_\_, or WBE \_\_\_\_\_  
(Minority or Woman owned Business Enterprise) If so, please indicate the classification below:  
☐ African American ☐ Hispanic American ☐ Asian American ☐ Native American ☐ Other \_\_\_\_\_

Check here if you qualify as an LOSB (Locally owned Small Business) \_\_\_\_\_